

REPORT

OF THE

COMMITTEE ON LANDS

TO THE TRUSTEES OF THE

Ohio Agricultural and Mechanical College,

RELATIVE TO THE

SWAMP, CONGRESS, CANAL, AND OTHER UNSOLD
LANDS OF THE STATE,

WITH AN APPENDIX.

Printed for the use of the Trustees and for the General Assembly.

COLUMBUS:

NEVINS & MYERS, STATE PRINTERS.

1873.



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REPORT OF COMMITTEE ON LANDS.

To the Board of Trustees of the Agricultural and Mechanical College :

The undersigned, a majority of the Committee on Lands, charged with the duties of inquiring into the condition and quantity of certain lands in the State of Ohio, known as "Swamp Land," "Canal Land," and forfeited lands, with a view to procuring an appropriation of the same, or the proceeds of the sales thereof, to the endowment fund of said College, now

REPORT:

That the sources of information relative to said lands were to be found principally in the Land Department of the office of the Auditor of State, the United States Land Office at Chillicothe, and in the General Land Office at Washington.

Your Committee had not proceeded far in their inquiries when they discovered that special qualifications, which they do not possess, such as an acquaintance with the land books in the various offices, was necessary to a proper discharge of the duties assigned them.

They therefore availed themselves of the aid of Chas. J. Wetmore, Esq., who has had charge of the Land Department of the Auditor's office for many years past. His long experience, his entire familiarity with the technology of all the land departments, coupled with an acquaintance with the legislation, both State and Federal, in respect to said lands, have enabled him to render your Committee important service, which he has presented in the following statement of facts, correspondence, and presentation of statutes :

To Messrs. J. M. Trimble, W. P. Noble and R. Leete, Committee on Lands in behalf of the Ohio Agricultural and Mechanical College, Columbus, O. :

GENTLEMEN: In response to the request of Mr. Leete, of your Committee, I beg leave to submit the following statement respecting the Swamp, Congress, and Canal Lands of this State.

Very respectfully,

CHAS. J. WETMORE.

S T A T E M E N T .

SWAMP LANDS.

The first act of Congress relative to Swamp Lands in Ohio was entitled "An act to enable the State of Arkansas and other States to reclaim the Swamp Lands within their limits." Approved Sept. 28th, 1850. (See United States Stat. at Large, Vol. 9, p. 519.) *Appendix "A."*

This act provides that "the whole of those swamp and overflowed lands, made unfit thereby for cultivation, remaining unsold at the date of the act, shall be and the same are hereby granted to the State," the proceeds to be applied "exclusively, as far as necessary," to reclaiming said lands, and the Secretary of the Interior is to make out lists and plats and transmit to the Governor.

On the 21st day of Nov., 1850, the Commissioner of the General Land Office addressed a letter to the Governor, inclosing a copy of the instructions "this day sent to the Land Officers of your State for the selection of swamp and overflowed lands to which the State will be entitled by the act of Sept. 28th, 1850." (See Letter and Instructions.) *Appendix "B."*

From a perusal of this letter and the instructions accompanying the same, it will be seen that all lands which, from being swampy or subject to overflow and unfit for cultivation, or which, though dry part of the year, are subject to inundation at the planting, growing or harvesting season, were clearly and unequivocally within the grant. The *Field Notes* of the surveys are the data upon which the lists are to be made out, *provided* the State accepts them as a basis, and it does not appear that any action was at any time expected or required of the State authorities, but if they should furnish satisfactory evidence that *any lands* are of the character embraced by the grant, the Registers and Receivers are required to report them. When the swamp or overflowed lands are on the borders of a stream or *lake*, directions are given for ascertaining boundaries. The lands thus selected to be reserved from sale, etc., etc.

On the 19th day of December, 1850, the Register of the U. S. Land Office, at Defiance, reported to the Commissioner of the General Land Office a list of Swamp Lands, embracing 32,438.15 acres, of which 25,640.71 acres were approved on the 27th day of September, 1852, and patented February 10th, 1853. These lands were embraced in "List No. 1."

And were located as follows, viz.:

In Auglaize county.....	160.	acres.
In Crawford ".....	225.56	"
In Defiance ".....	2,720.	"
In Fulton ".....	160.	"
In Hardin ".....	4,707.43	"
In Holmes ".....	40.	"
In Paulding ".....	640.	"
In Putnam ".....	1,760.	"
In Van Wert ".....	2,240.	"
In Williams ".....	545.86	"
In Wood ".....	6,986.60	"
In Wyandot ".....	560.	"
In Ottawa and Sandusky counties.....	4,895.26	"
* Total	25,640.71	"

The remainder of the lands reported by the Register at Defiance, viz.: 6,797.44 acres, were embraced in List No. 2, of selections rejected, for reasons following, viz.:

320 acres, because previously sold.

80 " " "

80 " because granted as canal land.

317.44 " because they were, by stipulation, to be sold for benefit of Indians.

6,000 " "*Deep marsh* in disputed territory, north of old State line,"
"because *not swamp*, and nearly all sold." (See Letter of
Register to Commissioner, Dec. 19, 1850, and of Commis-
sioner to Governor, May 9, 1856.) *Appendix "C" and "F."*

6,797.44

These lists, with a diagram of the lands, were received by the Governor in October, 1852, and are now on file in the office of the Auditor of State, pursuant to resolution of the General Assembly, passed December 28th, 1852. (O. Laws, Vol. 51, p. 547.)

By resolution of the General Assembly, passed May 1, 1852, the Governor was requested to procure patents for the Swamp Land selections. (O. Laws, Vol. 50, p. 44.)

* Of this amount the State authorities have been advised that 160 acres had been sold by the Government before the patent was issued.

Governor Wood, in a message to the General Assembly, dated December 2d, 1852, (see Leg. Doc., Vol. 17, Part I., page 3,) and also in a letter to the Commissioner of the General Land Office, of January 26th, 1853, referring to said lists and diagrams, says: "It struck me, from an intimate knowledge of the country embraced in the Defiance Land District, that the lands marked as *Swamp* Lands on the diagram were infinitely less than the Swamp Lands, in fact, which had been granted by Congress, and which the State of Ohio was entitled to under the grant."

It does not appear that the Legislature took any action upon the suggestions of Governor Wood; but on the 2d day of March, 1853, an act was passed, entitled "An act to provide for draining and reclaiming swamp and overflowed lands granted to the State of Ohio by act of Conday of April, 1854, an act amending the 9th section of the act of March gress, approved September 28, 1850" (*O. L. vol. 51, p. 357*); and on the 25th 2d, 1850, was also passed. (*O. L. vol. 52, p. 51.*) By these acts the lands were granted to the counties in which they were severally located, the proceeds of the sale to be used in draining the same; and if there was any excess remaining after draining, said excess to be paid into the county treasury for the use of common schools.

The Commissioner of the General Land Office (Butterfield), in his report to the Secretary of the Interior, December, 1850, says: "It was decided, with your approbation, to charge the Surveyors General of the several States in which their offices existed, in the first place, with making out lists of the lands granted to those States by that law, and when those offices were abolished (as in Ohio), to devolve that duty upon the land officers of the respective districts. Full instructions have been made out and transmitted for this purpose," etc., etc. The same officer, in his report in 1852, says: "In numerous instances it is found difficult accurately to detect from the plats and field notes of surveys the precise lands assignable to the State under the grant, and those subject to periodical overflow, so as to prevent their cultivation, when the same were surveyed in dry season, cannot be assigned without special examination in the field; and the expense of making such examinations is set forth by the reports of some of the Surveyors General. In those States wherein the office of Surveyor General had been abolished, the duty of making the required selections was from necessity devolved upon the *district land officers*, who have, to a considerable extent, reported the selections which have been made."

In a speech made by Hon. S. P. Chase in the Senate of the United States, April 14, 1852, on "the bill granting to the State of Ohio the unsold lands remaining within that State," he said: "The principal object of the measure is to terminate Federal ownership in the State of Ohio.

It grants to the State the unsold residue of the public lands within her limits, except that portion lying within the Virginia Military District.

There has been granted for schools (including section

16), colleges, etc.....	727,528	acres.
For internal improvements.....	1,243,001	"
For swamp lands.....	303,329	"
In all.....	2,273,858	"
And there is remaining unsold.....	216,070	" "

The figures were taken from a statement prepared for the use of Mr. Chase at the General Land Office, September 30th, 1851.

On the 15th day of April, 1852, Mr. Chase's bill, entitled "An act to grant to the State of Ohio the unsold and unappropriated public lands remaining in that State," passed the United States Senate. In addition to the grant of the unsold lands, the bill provides for the transfer to the Governor of Ohio, *or such person as he shall designate*, all the land records at the Chillicothe Land Office. *Appendix "D."*

The second section of the act of Congress passed March 2d, 1855, entitled "An act for the relief of purchasers and locaters of swamp and overflowed lands" (U. S. Stat. at Large, vol. 10, p. 634), (*Appendix "E"*) provides that if the Government has sold any lands that were swamp lands within the meaning of the act of September 28th, 1850, *the purchase money shall be paid the State*; and if said lands have been entered by warrant or with scrip, then the State shall be authorized to locate a like amount upon any public lands subject to entry at one dollar and twenty-five cents per acre.

On the 28th of April, 1856, Gov. Chase addressed a letter to Commissioner Thos. A. Hendricks (*see Letter Book, Governor's Office, pp. 199 and 200*), calling his attention to the figures used by him in his speech in the Senate, April 14, 1852, and obtained from the Land Office, and desires him to explain the discrepancy between those figures and the list of selections actually approved (*i. e.* "303,329 acres" and "25,640.71 acres.")

On the 9th of May following, the Commissioner replied that the figures "303,329 acres were taken from an estimate made by the Surveyor General, on the 8th day of October, *1847." (*Appendix "F."*)

It appears from this letter, and from the letter of the Register at

* Under the act of June 12, 1840, the plats and field notes of the United States Surveys, in this State, were to be deposited in the office of the Secretary of State, U. S. (*Stat. at Large, Vol. 5, p. 384.*) And by the act of the General Assembly of Ohio, passed February 26, 1846, the Secretary of State was required to take charge of said plats, surveys, &c., which had been "delivered to the Governor by the Surveyor General at Detroit."

Defiance, of December 19, 1850 (*Appendix "C"*), referred to therein, that the Land Officers at Chillicothe and Defiance were not very zealous advocates of the interests of the State in the swamp land business.

The act of Congress, entitled "An act to confirm to the several States the swamp and overflowed lands selected under the act of September 28, 1850, and the act of the 2d of March, 1849," was approved March 3, 1857. (*U. S. Stat. at Large, Vol. 11, p. 251. Appendix "G."*)

This act continues in force, the act of 1855 confirming all selections under the act of 1850, and requires patents to be issued.

On the 7th of March following, the Commissioner (*Appendix "H"*), writes to Gov. Chase, calling his attention thereto, and especially to the provisions respecting re-imbursement of purchase money of any sales since the passage of the act of 1850, and an equivalent for entries with warrants or scrip; and adds that "the lists necessary to enable the State to *derive the benefits* of the acts of 1855 and 1857, will be prepared and transmitted without delay." And through all the communications from the Land Office, the declaration or idea is prominent that the United States authorities will designate the lands enuring to the State. But the "lists" referred to, do not seem to have been furnished at this time, nor in fact at any time. The State authorities were meanwhile groping in the dark.

Finally, on the 7th of August, 1857, Gov. Chase wrote again to the Commissioner, transmitting a list of swamp lands in Paulding county, attested by the County Surveyor and Ezra J. Smith, Esq., and says: "I find that a very large quantity granted to the State has never been certified. Of this large quantity, the lands embraced in the lists forwarded, lie in Paulding county." (*See Letter Book, Executive Office, p. 25. Appendix "I."*) And this appears to have closed the swamp land business during his administration. There is no evidence filed of any reply to the above letter, nor of any further action, until May 21, 1860, when Gov. Dennison received from the Commissioner of the General Land Office, a letter enclosing a copy of the act of Congress, approved March 12, 1860, entitled "An act to extend the provisions of an 'act to enable the State of Arkansas and other States to reclaim the swamp lands within their limits,' to Minnesota and Oregon, and for other purposes," (*See U. S. Stat. at Large, Vol. 12, p. 3; Appendix "K"*), the second section of which limits the time within which selections can be made to two years from the date of adjournment of the Legislature then in session. Gov. Dennison took some steps with a view of getting action upon the subject, but the war commencing soon after, the matter was entirely lost sight of.

In the course of this examination, I find among my private papers a

letter from the Commissioner of the General Land Office, dated March 25, 1872 (*Appendix "L"*), in reply to a letter which I had addressed to the Secretary of the Interior, in which he says, that "in 1857, another list, embracing 21,999.99 acres, was reported as swamp land, but no action was taken thereon, because they were alternate sections within the five mile limits of the canal grant, it having been decided by the Secretary of the Interior by letter* dated November 20, 1855, that such sections did not enure to the State under the swamp grant."

On the 16th day of November last, Hon. R. Leete, of your committee, and the writer, went to Chillicothe and called upon the Register and Receiver at the land office in that place, with the hope of getting some information in regard to these lands, and also the unsold Congress lands of the State. We found those officers very obliging and desirous to aid us. Upon examining their books it appeared that on the 18th of August, 1857, some 23,000 acres of land in Paulding county was "reserved from sale," as swamp land, and restored to sale by order of the Commissioner of the General Land Office, November 2, 1863, and that the said lands have all since been sold at \$2.50 per acre, being alternate sections. Without doubt these are the selections embraced in the lists sent to the Commissioner by Governor Chase, August 7, 1857, and rejected because they were within the five mile canal grant.

In the foregoing statement reference is made to all the acts of Congress and of the General Assembly of Ohio, relative to swamp lands in this State, and also to all the official correspondence on the subject which could be found. From the several acts of Congress to which reference has been made, as well as from the correspondence and instructions of the Commissioner of the General Land Office, it will be seen that the responsibility of selecting these lands devolved upon the United States authorities. The State authorities were invited to assist, and could procure additions to the lists of such lands as were embraced by the terms of the grant, although not so indicated upon the plats and surveys.

Without doubt the Surveyor General's estimate in 1847, (viz: 303,329 acres,) was far below the actual area of the swamp lands then within the limits of the State, and infinitely less than the original quantity. Any

* No such letter can now be found.

NOTE.—With respect to the list, embracing 21,999.99 acres, attested by the surveyor of Paulding county and Ezra J. Smith, Esq., reported to the Commissioner of the General Land Office in 1857, and rejected "because they were *alternate sections*," it may be said that it does not appear that the terms of the grant will admit of the exclusion of alternate sections, provided they are swamp within the meaning of the act of September 28, 1850, which these lands undoubtedly were.

one familiar with the lands in the northwestern portion of the State must be aware that a large portion of them were and are unfit for cultivation until thoroughly surface-drained; that the *ditch taxes* in some of these counties have been excessively burdensome to the settler, and that the principal obstacle in the way of an early settlement of that section has been and is in the wet and swampy nature of the land.

CONGRESS LANDS.

The United States Land Office at Defiance was burned April 10, 1851, and with it all the records which had accumulated there. In 1855 this office was removed to Chillicothe, and now at the office at the latter place are accumulated the records and papers of all the United States Land Offices which have existed in this State; that is to say, the *original records* of all the sales and entries of Congress lands within this State, and the original papers relating thereto, excepting such as were destroyed at the burning of the office at Defiance, and these last probably embraced most of the sales and entries in the northwestern part of the State.*

On visiting the Chillicothe office in November last, as stated, and examining the books, we could find nothing of practical value, excepting what has been stated in respect to the swamp land selections. The Register, Mr. Franklin, said in substance, that in consequence of the burning of the records at Defiance, the data with respect to vacant or unsold Congress lands, in that part of the State, was very imperfect and unsatisfactory. He was not aware that there were any unsold Congress lands in the State. Occasionally individuals came to his office desiring to enter lands which they supposed were vacant, but he could ascertain whether they were subject to sale only by correspondence with the General Land Office at Washington. There are, however, doubtless very many single tracts scattered through the northwestern counties of the State, perhaps known to be vacant, but for various reasons not applied for. On the lake shore, in Wood county, bordering upon townships 9 and 10, in range 9, Michigan M., and upon town 10, in range 10, Michigan M., there is what is designated upon the plats, an "impassable marsh covered with water," of considerable extent, bounded in the waters of the lake by a "sandy ridge," and extending from the light-house at Cedar Point down nearly

* NOTE.—These books and papers, in quantity sufficient to fill the shelves of the most spacious office in the State House, are deposited in a large rear room of the Court House building, and in case of a destructive fire would inevitably be mostly destroyed.

to the old State boundary line. The plats and field notes define clearly the limits of the surveyed townships bordering thereon, and it is understood that this marsh, with the exception perhaps of the island at its northern extremity (Cedar Island), is not embraced in the United States surveys, and, that it should be granted to the State as swamp land, there is little doubt. It has been the subject of cautious inquiry for several years past, and is understood to be valuable for its sand, as a fishing ground, and perhaps for other purposes.

This examination has led me to believe it unlikely that there are any large bodies of congress lands vacant or unsold. With a view of arriving at an approximation to the facts, I have prepared the following statement, selecting such counties only as have full original surveyed townships, and parts of full original surveyed townships of 23,040 acres each, whose actual area I could readily determine. The grand duplicate for 1872 gives the whole number of acres, exclusive of towns and villages, taxed in each county :

STATEMENT.

Counties.	Number of townships.	Entire area of county in acres.	Acres per duplicate. of 1872.	Acres vacant.
Allen.....	11 $\frac{1}{2}$	259,200	255,930	3,270
Defiance.....	11 $\frac{1}{2}$	264,960	257,492	7,468
Hancock.....	14 $\frac{3}{4}$	339,840	336,922	2,918
Henry.....	11 $\frac{3}{4}$	268,800	263,060	5,740
Paulding.....	11 $\frac{1}{2}$	264,960	257,086	7,874
Putnam.....	13 $\frac{1}{2}$	307,200	301,237	5,913
Van Wert.....	11 $\frac{1}{2}$	259,200	258,256	944
Seneca.....	15	345,600	345,158	442
Totals		2,309,760	2,275,191	34,569

There are probably some unsold school lands in the above named counties. It is also probable that some lands are twice charged on the duplicate, and others which are unsold have doubtless been placed upon the duplicate without authority. There are no complete tract books in the office of the Auditor of State, none at all at Chillicothe, and consequently the tract books of the General Land Office at Washington afford the only means of determining, with any degree of certainty, whether there are any unsold Congress lands in this State, and if so, their location.

CANAL LANDS.

Under this head are classed those lands granted by Congress to the State to aid in the construction of the canals authorized by law. The

destruction of the U. S. Land Office at Defiance involved also the destruction of all the records and papers pertaining to the State Land Office for the sale of canal lands at that place, and the loss of these records leaves the State authorities in the same uncertainty in regard to vacant canal lands that is found to exist at the Chillicothe office in regard to vacant Congress lands. The books and papers of the Defiance State Land Office were removed to Columbus in 1858, and the duties of the Land Agent devolved upon the Auditor of State. (S. & C., p. 194.) It is supposed that the canal lands are all sold—that is, with the exception of some islands in the Miami and Maumee rivers, there are none known to be vacant—and yet occasionally vacant canal lands are found and entered at this office under the laws in force, at prices varying from 31½ cents to \$2 per acre. I have stated that the Register at Chillicothe was not aware that there were any unsold Congress lands within the State, and that there were no canal lands known by the State authorities to be vacant. Undoubtedly, however, there are a considerable number of tracts scattered through the north-western part of the State, which on account of the burning of the land office at Defiance have been lost from the books, but which will ultimately be brought to light; and if the land records of the State were all centered in one office, and the residue of the public lands brought under one ownership, the probability is that many of these tracts would be applied for without delay—many particular tracts being doubtless known to persons who are unwilling to encounter the delays and hindrances, the expense and the risk of loss resulting from the necessity of seeking information relative to them through three offices, neither having complete data to act upon, and located in cities widely asunder.

FORFEITED LANDS.

The lands thus called, about which your committee make inquiry, are those canal lands which have been sold at reduced price for actual settlement, and for which, in consequence of failure to make the required improvement or settlement, purchasers have been unable to procure deeds. The residue of these lands were sold by Auditor Godman, Dec. 21, 1871, to Jas. Webster, Esq., of Van Wert county. Possibly a few pieces were overlooked. It may be proper to remark in this place that nearly all the sales of canal land since 1847 were made under the several improvement acts; and it is probably safe to say that in nine cases out of ten no improvement was made, and in very many cases the land *remains unimproved to this day*. Until the office was removed to Columbus, in 1858, deeds were procured for such lands upon affidavits which were a complete

evasion of the law, as can be shown from the affidavits on file in the State Auditor's office. Some of these lands might probably be reclaimed by the State.

LANDS BELONGING TO THE PUBLIC WORKS.

Under this head are embraced such lands and town lots as were donated to the State by individuals in order to secure such location of the line of the canals as would most conduce to their interests. (See Senate Journal, 1827-8, page 246 *et seq.*) It is probable that some of the lands and lots thus conveyed are unsold and lost sight of by the lapse of time.

Also, the lands and lots which the Canal Commissioners in constructing reservoirs and for other purposes, have found it necessary to condemn and purchase. In many of the purchases thus made, (as at the reservoirs,) the Commissioners were obliged to purchase in quantity in excess of their wants, and the surplus remains undisposed of. Of the latter class, were village lots in Akron and Dresden, which have probably all been sold; city property in Cleveland, some of which, perhaps all, has been sold; thirty-two acres of land four miles south of the city of Columbus, and thirty-two and one-half acres of land in Coshocton county, and other tracts in various parts of the State on the line of the canals, which have not been sold.

Respectfully submitted,

CHAS. J. WETMORE.

Your committee are deeply impressed with the conviction that the endowment fund of said College should be increased to an amount that will produce an income of at least \$100,000 a year, in order to found and support such an institution at the capital of our State as will meet the requirements of the present advanced state of knowledge, and attract to it for instruction the thousands of talented young men of Ohio, now availing themselves of the superior facilities for instruction furnished in other States.

The impoverishment of our soil by tillage, demands improved methods of culture.

The iron and coal deposits within our borders, ampler than those of Great Britain, require development.

The alarming increase of insanity, for the treatment and cure of which the State is making liberal expenditures, demands the most thorough investigation of its causes and methods of treatment.

It is not claimed or pretended that there is any institution of learning

in this State, where the objects contemplated by the laws creating this College are efficiently taught.

Such, for example, as metallurgy, civil engineering, mining engineering, which includes the survey, ventilation and care of the mines, chemistry and its application to agriculture, and the mechanic arts.

The present and the future prosperity of our people rest upon agriculture, and the development of the coal and iron mines.

There is no assignable limit to the wealth which may be created and the population which may be sustained by the new industries that the iron and coal found within our borders will call into existence, when placed under the direction of such scientific methods as are now employed in the working of metals in some parts of Europe, and in some places in the United States.

The advancement of these great interests are among the leading objects of this College, as will appear from the legislation, both State and Federal concerning it, as well as from the course of instruction prescribed by the Board of Trustees.

We are of opinion that with the aid of friendly legislation, on the part of this State and the United States, this College may be so endowed without any demand upon the tax-payers of the State, as that it shall in the commencement of its career rank with the most vigorous Universities in the United States.

A thoroughly furnished University, in which every branch of useful knowledge shall be taught, by methods the most exhaustive, will prove in Ohio to be, what it has been in England, and in some of the States of this Union, the main element in State and national strength.

The laws and statement of facts herewith presented, indicate the following resources which may be made available as an endowment fund, to be placed in the State treasury as a part of the irreducible debt:

1st. The proceeds of the sales of the Swamp Lands, selected for this State, now in the United States treasury.

2d. The remainder of the unsold swamp and other lands of the United States in this State.

3d. The unsold State lands, granted by Congress for canal purposes, and surplus lands purchased by the State for the use of the canals.

4th. The claim of this State upon the United States, known as the "*Two per cent. claims*," for the payment of which a bill has lately passed the United States House of Representatives. In case said bill shall become a law, it will perhaps yield \$375,000 to \$400,00, to the State treasury.

The amount of the proceeds of the sales of swamp land is not yet

ascertained ; it is probably not less than \$250,000. It will be seen by reference to appendix, (page 23,) that the second section of the act of Congress of March 2d, 1855, that the moneys arising from said sales belong to this State, and should have been placed in the State treasury years ago. Said act is in force, and not repealed.

From the foregoing data, it is apparent that with proper legislation this institution can be amply endowed without any call upon the tax-payers.

It is conceded on every hand that such an institution, as that described in the act of Congress, creating the fund now in the State treasury, is a necessary supplement to the present educational system of the State in order to promote the "liberal and practical education of the industrial classes."

Had the General Assembly in 1863 exercised the same prudence and foresight in disposing of the land-scrip granted to this State for the founding of said College, which was practiced by the States of New York, Massachusetts, Kansas and some others, our fund would at this time have amounted to at least \$4,000,000, instead of \$486,840 62, as shown by the Auditor's report.

Your committee could not do less than to present the foregoing facts and considerations to this Board, with a view that it will take such action as will bring the several matters, herein contained, before the General Assembly in the confident belief that the members of that body will adopt the legislation requisite to place said College on a basis equal to that of the best University in the country. Anything short of this would be unworthy of the place which Ohio holds as the foremost State of the Mississippi Valley, and as a member of the Federal Union.

RALPH LEETE,
W. P. NOBLE.

Columbus, January 3, 1873.

The foregoing report, on motion of Judge Jones, was adopted, and ordered to be printed.

J. SULLIVANT,
Secretary.

APPENDIX.

"A."

SWAMP LANDS.

[U. S. Stat. at Large, vol. 9, p. 519.]

AN ACT to enable the State of Arkansas and other States to reclaim the "swamp lands" within their limits.

SECTION 1. *Be it enacted by the Senate and House of Representatives in Congress assembled,* That to enable the State of Arkansas to construct the necessary levee and drains to reclaim the swamp and overflowed land therein, the whole of those swamp and overflowed lands, made unfit thereby for cultivation, which shall remain unsold at the passage of this act, *shall be, and the same are hereby granted to said State.*

Swamp land unfit for cultivation granted to Arkansas.

SEC. 2. *And be it further enacted,* That it shall be the duty of the Secretary of the Interior, as soon as may be practicable after the passage of this act, to make out an accurate list and plats of the lands described as aforesaid, and transmit the same to the Governor of Arkansas, and at the request of said Governor, cause a patent to be issued to the State therefor; and on that patent, the fee simple to said lands shall vest in the said State of Arkansas, subject to the disposal of the Legislature thereof: *Provided, however,* that the proceeds of said lands whether from sale or by direct appropriation in kind, shall be applied exclusively as far as necessary to the purpose of reclaiming said lands by means of the levees and drains aforesaid.

Secretary of Interior to make out lists and plats of said lands, and when requested, to grant a patent vesting the same in the State of Arkansas.

Proviso.

SEC. 3. *And be it further enacted,* That in making out a list and plats of the lands aforesaid, all legal subdivisions the greater part of which is "wet and unfit for cultivation," shall be included in said list and plats; but when the greater part of a subdivision is not of that character, the whole of it shall be excluded therefrom.

When the greater part of a subdivision is unfit for cultivation, it shall be included in said plats; if the greater part be not of that character, it shall be excluded.

Provisions of
this act extend-
ed to other
States possess-
ing such lands.

SEC. 4. *And be it further enacted*, that the provisions of this act be extended to and their benefits be conferred upon, each of the other States of the Union in which such swamp and overflowed lands, known and designated as aforesaid, may be situated.

Approved Sept. 28, 1850.

“B.”

GENERAL LAND OFFICE, Nov. 21, 1850.

SIR: I have the honor to enclose you a copy of the instructions this day sent to the land officers of your State, for the selection of swamp and overflowed lands, to which the State will be entitled by the act of September 28, 1850.

You will perceive by these instructions the land officers are authorized to receive such reliable evidence of the character of any of these lands as may be presented by the authorities of the State; and as many of the lands were probably surveyed at dry seasons, and hence are not represented by the descriptive notes or plats as being of that character, I have supposed it to be a matter of sufficient importance to induce you to call upon the county surveyors, or other respectable persons of your State, for a statement, under oath, of the swamp or overflowed lands in their respective counties.

Such testimony you perceive will be regarded as establishing the facts in the case, and on receipt of the reports of the land officers, lists of the lands will be prepared as required by the act, submitted for the Secretary of the Interior and plats and patents for the lands thus approved, will be prepared and forwarded to you.

(Signed)

J. BUTTERFIELD, *Comr.*

His Excellency the Governor of Ohio.

GENERAL LAND OFFICE,
November 21, 1850.

SIR: By the act of Congress entitled “an act to enable the State of Arkansas and other States, to reclaim the ‘Swamp lands’ within their limits,” approved September 28, 1850, it is directed “That to enable the State of Arkansas,

to construct the necessary levees and drains to reclaim the swamp and overflowed lands therein, the whole of those swamp and overflowed lands made thereby unfit for cultivation, which shall remain unsold at the passage of this act, shall be and the same are hereby granted to said State."

1st. By the 4th section of this act, it is directed that the provisions of it shall be extended to and their benefits be conferred upon each of the other States of the Union, in which such swamp and overflowed lands may be situated.

2d. And "that in making out a list and plats of the lands aforesaid, all legal sub-divisions, the greater part of which is 'wet and unfit for cultivation,' shall be included in said list and plats; but when the greater part of a sub-division is not of that character, the whole of it shall be excluded therefrom."

This act clearly and unequivocally grants to the several States those lands which from being swampy or subject to overflow, are unfit for cultivation. In this class is included also all lands which, though dry part of the year, are subject to inundation at the planting, growing or harvesting season, so as to destroy the crop, and, therefore, are unfit for cultivation taking the average of the seasons, for a reasonable number of years, as the rule of determination.

You will please make out a list of all the lands thus granted to the State, designating those which have been sold or otherwise disposed of since the passage of the law, and the price paid for them when purchased.

The only reliable data in your possession from which these lists can be made out, are the field or descriptive notes of the surveys on file in your office; and if the authorities of the State are willing to adopt these as the basis of those lists, you will so regard them. If not, and those authorities furnish you satisfactory evidence that any lands are of the character embraced by the grant, you will so report them.

The following general principles will govern you in making up these lists, to wit:

Where the field notes are the basis and the intersections of the lines of swamp or overflow with those of the public surveys alone are given, those intersections may be connected by straight lines, and all legal sub-divisions, the greater part of which are shown by these lines to be within the swamp or overflow, will be certified to the State, the balance will remain the property of the Government.

Where the State authorities may conclude to have the

surveys made to determine the boundaries of the swamp or overflowed lands, those boundaries alone should be surveyed, taking connections with the nearest section or township corners ; or

Where the swamp or overflowed lands are on the borders of a stream or lake, the stream or lake could be meandered and ordinates surveyed at suitable intervals, from the borders of the stream or lake to the margin of the swamp or overflowed lands, and by connecting the ends of those ordinates, next to that margin by straight lines, the boundaries of the swamp or overflowed lands can be ascertained with sufficient accuracy. In no case, however, should any such boundaries or ordinates be marked in the field, as they may produce difficulty in determining the lines and corners of the public surveys hereafter and thus lead to litigation. The selections in all these cases will be made as before directed. *Where satisfactory evidence is produced, that the whole of a township, or of any particular and specified part of a township, or the whole of a tract of country bounded by specified surveyed or natural boundaries, is of the character embraced by the grant, you will so report it.* The adjacent sub-divisions, however, to be subject to the regulations above given ; and in every case under each rule or principle herein prescribed forty acre lots or quarter quarter sections will be regarded as the legal sub-divisions contemplated by the law.

The affidavits of the county surveyors and other respectable persons that they understand and have examined the lines, and that the lands bounded by lines thus examined and particularly designated in the affidavit, are of the character embraced by the law, should be sufficient.

The line or boundary of the overflow, that renders the land unfit for regular cultivation may be adopted as that which regulates the grant.

You will make out lists of these lands as early as practicable, according to the following form, one copy of which you will transmit to the land officers and another to this office. The lands selected should be reserved from sale, and after those selections are approved by the Secretary of the Interior, the Register should enter all the lands so selected in his tract books as "granted to the State by act of 28th September, 1850, being swamp or overflowed lands," and on the plats enter on each tract "State act 28th September, 1850." Copies of the approved lists will be sent to the Registers for

this purpose. Your early attention is requested in this matter that the grant may be disposed of as speedily as possible.

Very respectfully,

Your obedient servant,

(Signed) J. BUTTERFIELD,
Commissioner.

“C.”

REGISTER'S OFFICE, DEFIANCE, OHIO,
December 19, 1850.

SIR: In conformity with the instructions contained in your circular of November 21st, ult., I have made out and herewith transmit a list of the swamp lands in this district so far as I could do so from the data to which you refer me in said circular. I am not confident that I have not omitted land that might be termed swampy; but I am confident that the list embraces land that by simply clearing would become arable land, much land that the surveyor terms swampy in his descriptive notes, is embraced in the finest farms in this section of the country. The plats in this office seldom delineate a swamp when the descriptive notes say swampy—consequently I have been obliged to rely somewhat on my own personal knowledge of the country, obtained from observation and inquiry. In the last clause of the circular you pleased to say, “one copy of which you will transmit to the Land Office, and another to this (your) office.” I presume it means that I shall retain one copy and transmit another to your office.

[Signed.]

ABNER ROOT,
Register.

HON. JOHN BUTTERFIELD, *Commissioner of General Land
Office, Washington City.*

“D.”

An Act to grant to the State of Ohio the unsold and unappropriated public lands remaining in that State.

Be it enacted, &c., That all the public lands of the United States lying within the State of Ohio, which shall remain unsold and unappropriated, from and after the 31st day of July,

1852, shall be and the same are hereby granted to said State to be disposed of as the Legislature thereof shall direct: *Provided, however*, that this grant shall not in any way affect any right of pre-emption or other right of any individual in or to any portion of said land, nor shall it be construed or regarded as including any land within the Virginia Military District in that State; *and provided also*, that the lands within the Indian Reserves, the proceeds of which are by treaty stipulations required to be paid in part to certain Indians or Indian tribes, shall not be regarded as included in said grant, until after the State of Ohio shall have paid to the United States, for the use and benefit of said Indians or Indian tribes according to such treaties, fifty-five cents per acre, for each acre remaining unsold in said reserves.

SEC. 2. *And be it further enacted*, That immediately after the passage of this act, the Commissioner of the General Land Office, shall proceed to close the current land business in said State, and by or before the 31st of October, 1852, shall transfer to the Governor of the State of Ohio, or such person as he shall designate for that purpose, all the archives of every kind relating to lands within the State of Ohio, now in the District Land Office in that State *except the applications for purchase, which shall be transferred to the General Land Office*. And all the lands now belonging to the Chillicothe District which lie within the State of Indiana, shall be attached to, and subject to sale at the Jeffersonville District of that State, and the archives relating to those lands, shall be turned over to the land officers of that district.

SEC. 3. *And be it further enacted*, That the lands granted by this act, shall remain charged with all the liabilities and equities to which they are now subject, and the Legislature of said State shall make all necessary arrangements for discharging those liabilities and satisfying those equities.

Passed in Senate, April 15, 1852.

“E.”

SWAMP LANDS.

[U. S. Stat. at Large Vol. 10, p. 634.]

An act for the relief of purchasers and locators of swamp and overflowed land.

March 2d, 1865;

Be it enacted, &c., That the President of the United States cause patent to be issued, as soon as practicable, to the pur-

chaser or purchasers, locator or locators, who have made entries of the public lands, claimed as swamp lands, either with cash or with land warrants, or with scrip, prior to the issue of patents to the State or States, as provided for by the 2d section of the act approved September 28, 1850, entitled "an act to enable the State of Arkansas and other States to reclaim the [swamp lands within their limits," any decision of the Secretary of Interior or other officer of the government to the contrary notwithstanding: *Provided*, that in all cases where any State, through its constituted authorities, may have sold or disposed of any tract or tracts of said land to any individual or individuals prior to the entry, sale or location of the same, under the pre-emption or other laws of the United States, no patent shall be issued by the President for such tract or tracts of land, until such State, through its constituted authorities, shall release its claim thereto, in such form as shall be prescribed by the Secretary of the Interior. *And provided further*, that if such State shall not within ninety days from the passage of this act, through its constituted authorities, return to the General Land Office, a list of all the lands sold as aforesaid, together with the dates of such sale, and the names of purchasers, the patents shall be issued immediately thereafter, as directed in the foregoing section.

SEC. 2. *And be it further enacted*, That upon due proof by the authorized agent of the State or States, before the Commissioner of the General Land Office, that any of the lands purchased were swamp lands within the true intent and meaning of the act aforesaid, the purchase money shall be paid over to the said State or States; and when the lands have been located by warrant or scrip, the said State or States, shall be authorized to locate a quantity of like amount, upon any of the public lands subject to entry at one dollar and a quarter per acre, or less, and patents shall issue therefor, upon the terms and conditions enumerated in the act aforesaid: *Provided*, however, that the said decisions of the Commissioner of the General Land Office shall be approved by the Secretary of the Interior.

Approved March 2d, 1855.

Patents to issue for swamp land to purchasers and locators prior to issuing of patents to the State.

1850 ch. 81

Provisions for the case of a sale by a State prior to its obtaining a patent.

List of such sale to be returned.

Indemnity to the States when they lose swamp lands under this act.

"F."

GENERAL LAND OFFICE,
May 9, 1856.

SIR: I have the honor to acknowledge the receipt of your letter of the 28th ult., calling my attention to a statement heretofore furnished you, relative to swamp and overflowed lands in Ohio, and asking an explanation of the discrepancy between said statement and the list of approved selections.

The statement to which you refer, and which was appended to your speech made on the 14th of April, 1852, in the Senate of the United States, allotted to the State of Ohio, as the estimated amount of land enuring to her under the swamp land grant, 303,329 acres. In a letter to you, dated the 20th of May, 1852, I find it stated that the number of acres of swamp lands in Ohio, as shown in the report—meaning the statement just mentioned—was taken from an estimate made by the Surveyor General on the 8th day of October, 1847: that much of the land reported by the Surveyor General had been sold, but how much could not then be determined; that the land officers had been called upon, by a circular dated November 21, 1850, to report lists of the swamp lands in their districts; but as only partial returns had been made, you could not be advised of the exact amount to which the State would ultimately acquire title. In December, 1850, the Register at Defiance reported a list of swamp lands, embracing 32,438.15 acres, of which 25,640.71 acres were approved September 27, 1852, and patented February 19, 1853; the remaining 6,797.44 acres were rejected September 29, 1852, for the reasons stated in the margin of said list, a copy of which was sent to the then Governor on the 5th day of October of that year. You state the amount of approved land to be 25,720.71 acres.

You will observe that the E. half of N. E. quarter of section 23, T. 2, R. 4, was erased from the list on the 10th day of January, 1853, reducing the total to the amount above stated.

In his letter, dated May 1, 1852, the Register of the Land Office at Chillicothe, at that time the only other existing office in the State, advised this office that his plats and field notes did not furnish any reliable data on which to base selections, and that as the instructions contemplated some

action by the State authorities, he could only look to them to select and report such lands as properly enured to the State. No action appears to have been taken by those authorities, and the swamp land business so far as concerns the State of Ohio, has been long looked upon as concluded. This is the only explanation I can give of the discrepancy to which you refer.

In your letter now before me, you state that you have been advised "that there still exists a large body of swamp land in the northwestern part of the State which has never been included in any cession made to the State, and that Congress has made provision by law for correcting errors in the selections heretofore made, of which provision the State must avail herself, within a limited period;" wherefore you ask such references to the statutes, and such statements as will enable you to assert and protect the interests of the State.

In reply to this, I would remark that the law of 28th September, 1850, prescribed no time within which the swamp selections were to be made, neither has any limit been designated by this office nor by subsequent legislation of Congress. Hence, if there be any public lands of the United States in the State of Ohio remaining vacant, which were swamp and overflowed at the time of the passage of the law of September 28, 1850, they are properly the subject of selection.

(Signed)

THOS. A. HENDRICKS,
Commissioner.

To His Excellency S. P. CHASE, Governor of Ohio.

"G."

SWAMP LAND.

[U. S. Stat. at Large, vol. 11, p. 251.]

AN ACT to confirm to the several States the swamp and overflowed lands selected under the act of September 28th, 1850, and the act of the 2d March, 1849.

March 3, 1857.

Be it enacted, &c., That the selection of swamp and overflowed lands granted to the several States by the act of Congress approved September 28, 1850, entitled "An act to enable the State of Arkansas and other States to reclaim the swamp lands within their limits," and the act of 2d March, 1849,*

Selections of swamp and overflowed land confirmed. 1850, ch. 84, vol 9, p. 519.

* Act of 1849 relates solely to State of Louisiana.

1849, ch. 87, vol.
9, p. 352.

Act of 1855, ch.
147, continued
in force, and
extended, vol.
10, p. 634.

entitled "An act to aid the State of Louisiana in draining the swamp lands therein," heretofore made and reported to the Commissioner of the General Land Office, so far as the same shall remain vacant and unappropriated, and not interfered with by an actual settlement under any existing law of the United States, be and the same are hereby confirmed, and shall be approved and patented to the several States in conformity with the provisions of the act aforesaid, as soon as may be practicable after the passage of this law: *Provided, however*, that nothing in this act contained shall interfere with the provisions of the act of Congress entitled "An act for the relief of purchasers and locators of swamp and overflowed lands," approved March 2d, 1855, which shall be and is hereby continued in force, and extended to all entries and locations of land claimed as swamp lands made since its passage.

Approved March 3, 1857.

"H."

GENERAL LAND OFFICE,
March 7, 1857.

His Excellency S. P. Chase, Governor of Ohio :

SIR: By an act passed on the 3d of March, 1857, Congress has confirmed the selections of swamp and overflowed lands granted to the several States by the act of Congress, approved September 28, 1850, "heretofore made and reported" to this office, and "so far as the same shall remain vacant and unappropriated, and not interfered with by an actual settlement under any existing law of the United States," it is required that the same shall be approved and patented as soon as practicable. The same law continues in force, the act of 2d March, 1855, and extends its provisions to all entries and locations of lands claimed as swamp lands made since its passage.

By this law all of the contested cases remaining unadjusted are at an end, and we are precluded from entertaining further objections against the approval of any lands heretofore selected and reported under the law. The States are entitled to all of their selections remaining vacant and unappropriated, and not interfered with by any actual settlement, also to the purchase money in cases of cash entry made since

the passage of the act of 1850, and an equivalent in lands for the tracts located with Military Bounty Land Warrants or scrip. Every effort will be made to promote the speedy adjustment of the swamp grant in conformity with this recent legislation, and the selection in each State will be acted upon in the order of their receipt at this office. The lists necessary to enable the States to derive the benefits of the acts of 2d March, 1855, and 3d of March, 1857, will be prepared and transmitted without delay.

As the act of 1857 continues in force, the prior law of 2d March, 1855, the provisions of the latter regarding the issue of patents to the purchasers, &c., will be considered as binding, and the same will be withheld in cases of prior sale by the State, until the execution of the release therein mentioned. It will be necessary, therefore, that we should be advised of all sales of swamp lands made by the State since the passage of said act of 1855, which report should be made within ninety days from the date of the law of 1857, in order that we may be enabled properly to discriminate. The necessary information relative to the form of the report, &c., will be found in the letter from this office of March 9, 1855, and it is respectfully suggested that you give the earliest possible attention to the matter.

[Signed.]

THOS. A. HENDRICKS,
Commissioner.

“I.”

EXECUTIVE OFFICE,
Columbus, August 7, 1857.

SIR: I inclose to you a list of swamp and overflowed lands in Paulding county, in this State, attested by the affidavits of Henry S. Brown, Esq., surveyor of the county, and Ezra J. Smith, Esq., which, I trust, will be deemed sufficient to warrant you in certifying these lands to the State, under the act of September 28, 1850. In a former letter, I advised you that I had reason to believe that the quantity of swamp lands certified to this State, was far less than the quantity actually granted by the act of 1850, and referred you to a statement prepared at the Land Office confirming this view.

In reply, you advised me that the selections were not limited in time, I have, therefore, taken steps to ascertain whether or not I am correct in my supposition, *and I find that a very large quantity granted to the State has never been certified.* Of this large quantity, the lands embraced in the lists forwarded, lie in Paulding county. I shall feel very much indebted to you, should you find that there are defects in the proceedings I have adopted, if you will send me such documents and instructions as will enable me to have this matter properly and finally adjusted between the State and the General Government.

[Signed.]

S. P. CHASE.

To Commissioner of General Land Office.

“K.”

[U. S. Stat. at Large, vol. 12, page 3.]

AN ACT to extend the provisions of “an act to enable the State of Arkansas and other States to reclaim lands within their limits,” to Minnesota and Oregon, and for other purposes.

SECTION 1. *Be it enacted, &c.* That the provisions of the act of Congress, entitled “An act to enable the State of Arkansas and other States to reclaim the swamp lands within their limits,” approved September 28th, 1850, be and the same are hereby extended to the States of Minnesota and Oregon: *Provided*, that the grant hereby made shall not include any lands which the Government of the United States may have reserved, sold, or disposed of (in pursuance of any law heretofore enacted) prior to the confirmation of title to be made under the authority of said act.

SEC. 2. *And be it further enacted*, That the selections to be made from lands already surveyed in each of the States, including Minnesota and Oregon, under the authority of the act aforesaid, and of the act to aid the State of Louisiana in draining the swamp lands therein, approved March 2d, 1849, shall be made within two years from the adjournment of the legislature of each State at its next session after the date of this act, and as to all lands hereafter to be surveyed, within two years from such adjournment, at the next session after notice by the Secretary of the Interior to the Governor of the State that the surveys have been completed and confirmed.

Approved March 12th, 1860.

Provisions of
act of 1850
(ch. 84, vol. 9,
p. 519) extended
to Minnesota
and Oregon.

Proviso.

Selections un-
der said act and
the act of 1849,
ch. 87, vol. 9, p.
352, when to be
made.

"L."

DEPARTMENT OF THE INTERIOR,
Washington, D. C., 27th March, 1872.

SIR: Your letter of the 18th inst. concerning swamp lands in Ohio, was received, and referred to the Commissioner of the General Land Office. A copy of his report on the subject, under date of the 25th inst, is herewith inclosed.

I am, Sir,

Very respectfully,

Your ob't servant,

C. DELANO,
Secretary.

CHAS. J. WETMORE, ESQ.,
Auditor of State's Office,
Columbus, Ohio.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE
Washington, D. C., March 25th, 1872.

Hon. C. DELANO, Secretary of the Interior :

SIR—I have the honor to acknowledge the receipt—by reference from you—of the communication from Chas J. Wetmore, Esq., of Columbus, Ohio, dated the 18th inst., relative to swamp lands in the State of Ohio.

In reply, I have to state that an examination of our records shows that swamp-land selections, amounting to 54,438.14 acres, were reported to this office as inuring to the State of Ohio, under the act of September 28, 1850—selected and disposed of as follows; viz.: In 1850 a list of lands was reported as swamp selections inuring to the State, embracing 32,438.15 acres, of which amount 25,640.71 acres were patented to the State as swamp lands, February 19, 1853, and the remaining 6,797.44 acres were rejected by this office, for reasons stated in our letter to the State authorities, of date September 29th, 1852.

In 1857 another list, embracing 21,999.99 acres, was reported as swamp-land selections, but no action was had thereon with a view to patenting as such, for the reason that the tracts embraced in said list, were found to be alter-

nate sections, within the five mile limits of Canal grants, it having been decided by the Secretary of the Interior, by letter, dated November 20, 1855, that such alternate sections did not inure to the State under the Swamp grant.

The above embrace all the swamp-land selections reported to this office as inuring to the State of Ohio, under the act of September 28, 1850, as shown by the records of this office.

Mr. Wetmore's letter is herewith returned.

I have the honor to be,

Very respectfully,

Your obt. servant,

WILLIS DRUMMOND,

Commissioner.

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